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NEWS CONFERENCE # 795

AT THE WHITE HOUSE

WITH PIERRE SALINGER

OCTOBER 23, 1962

7:15 PM EDT

TUESDAY

MR. SALINGER: We do not have copies of this and we won't have copies for 20 minutes, but because the President has signed it I am going to try to go through this as quickly as possible. I will not read it at the slow speed.

Q. Pierre, will we be free to leave after you read it?

MR. SALINGER: Unless you want to ask some questions of Mr. Chayes. I have Mr. Chayes here so I can dispose of the legal questions involved in this thing.

It has a number of "whereas's" which I won't bother you with at the moment.

Q. How long does it run, Pierre?

Q. What is it called?

MR. SALINGER: It is called "Interdiction of the Delivery of Offensive Weapons to Cuba".

*** "do hereby proclaim that the forces under my command are ordered, beginning at 2:00 P.M. Greenwich time" -- that is 10 a.m. Eastern Daylight Time tomorrow morning -- "to interdict, subject to the instructions herein contained, the delivery of offensive weapons and associated materiel to Cuba.

"For the purposes of this Proclamation, the following are declared to be prohibited materiel:

"Surface-to-surface missiles; bomber aircraft; bombs, air-to-surface rockets and guided missiles; warheads for any of the above weapons; mechanical or electronic equipment to support or operate the above items; and any other classes of materiel hereafter designated by the Secretary of Defense for the purpose of effectuating this Proclamation.

"To enforce this order, the Secretary of Defense shall take appropriate measures to prevent the delivery of prohibited materiel to Cuba, employing the land, sea and air forces of the United States in cooperation with any forces that may be made available by other American States.

"The Secretary of Defense may make such regulations and issue such directives as he deems necessary to ensure the effectiveness of this order, including the designation, within a reasonable distance of Cuba, of prohibited or restricted areas."

into custody. Any vessel or craft which it is believed is en route to Cuba and may be carrying prohibited materiel or may itself constitute such materiel shall, wherever possible, be directed to proceed to another destination of its own choice and shall be taken into custody if it fails or refuses to obey such directions. All vessels or craft taken into custody shall be sent into a port of the United States for appropriate disposition.

"In carrying out this order, force shall not be used except in case of failure or refusal to comply with directions, or with regulations or directives of the Secretary of Defense issued hereunder, after reasonable efforts have been made to communicate them to the vessel or craft, or in case of self-defense. In any case, force shall be used only to the extent necessary."

Q. Can those of us who have to file now go?

MR. SALINGER: Those of you who have to file now can leave.

Q. Will a text be available, Pierre?

MR. SALINGER: In about 15 minutes.

Q. How do they plan to stop aircraft?

MR. SALINGER: Any questions can be directed to Mr. Chayes. He is answering ECR BACKGROUND only.

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Q. How about aircraft?

MR. CHAYES: I think on the operational part of this, you have to ask the Defense Department people.

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MR. SALINGER: The Secretary of Defense is having a briefing in 10 minutes.

* * * * *

Q. What is the purpose of the delay in the effectiveness until ten a.m. tomorrow?

MR. CHAYES: In order to have this effective, we have to get notice to countries who may be affected and whose shipping may be affected, so that they can take steps to comply with the order.

Q. This is under international law, the UN Charter, or what?

MR. CHAYES: In general, we believe it is required by international law and the circumstances.

Q. There is nothing specific in international law, but it is common sense?

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"The Secretary of Defense may make such regulations and issue such directives as he deems necessary to ensure the effectiveness of this order, including the designation, within a reasonable distance of Cuba, of prohibited or restricted zones and of prescribed routes.

"Any vessel or craft which may be proceeding toward Cuba may be intercepted and may be directed to identify itself, its cargo, equipment and stores and its ports of call, to stop, to lie to, to submit to visit and search, or to proceed as directed. Any vessel or craft which fails or refuses to respond to or comply with directions shall be subject to being taken

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custody shall be sent into a port of the United States for appropriate disposition.

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Q. This is under international law, the UN Charter, or what?

MR. CHAYES: In general, we believe it is required by international law and the circumstances.

Q. There is nothing specific in international law, but it is common sense?

MR. CHAYES: The idea is you don't take forceful measures against somebody unless you have notified him what he is doing wrong in advance.

Q. How many countries?

MR. CHAYES: We will be notifying all capitals tonight. The messages are going out now, and it is going out in the clear

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over Voice of America right now.

Q. Is the United States in a state of peace with Cuba or a state of war with Cuba?

MR. CHAYES: A state of peace with Cuba. Let me say it is not in a state of war with Cuba.

Q. How is this communicated to these capitals?

MR. CHAYES: It is being communicated to capitals by the ambassadors. The ambassadors are being called in here and given copies. And it is being broadcast in the clear by the Voice of America.

Q. To what extent will other countries in this hemisphere help in this blockade, if any?

MR. CHAYES: Well, as you know, today the OAS voted by 19 to 0, with one absension because he didn't have any instructions, the resolution fully authorizing this quarantine measure, and we are already engaged in conversations with them to talk about contributions to the effectiveness of the blockade, and we expect some.

Q. Has anybody else offered yet?

MR. CHAYES: I just can't say, but we are having hopeful talks.

Q. Colombia has. Any other country?

MR. CHAYES: I don't know.

Q. When you take these ships into port for disposition by a court --

MR. CHAYES: It doesn't say for disposition by a court. It says for appropriate disposition.

Q. I thought it said by a court.

MR. CHAYES: No, sir.

Q. What is the technical thing? Do you --

MR. CHAYES: You take the ship into custody under the orders of the President. Then, of course, if it comes into port, among other things our courts are available if the person thinks he has been unlawfully taken into custody.

Q. How far out on the high seas?

MR. CHAYES: That is an operational question. There is no limit specified in the Proclamation, but obviously it is a reasonable distance.

Q. You just said the use of force will be justified under certain circumstances. At the Pentagon last night, at a briefing, as I read the accounts of it, if a ship refuses search, we could possibly sink it. Is that what you

ship is to be used. The second is the case of self-defense. In the case of self-defense, you use what you need to defend yourself. You can obviously imagine cases in which the amount of force will be very great.

Q. What is the customary number on boarding and searching?

MR. CHAYES: Again, these are operational questions that the Navy will have to answer. Of course, the availability of modern means of communication and modern intelligence means suggest that a wide range of techniques will be used to ascertain the kind of cargo being carried.

Q. Will any measures of this kind be in effect before it takes effect at ten tomorrow?

MR. CHAYES: The Proclamation is effective when it says, and there is no authority to take any intercepting action or interdictory action before that.

Q. How was Moscow notified of this?

MR. CHAYES: The same way as everybody else.

Q. Here or there?

MR. CHAYES: Both places.

Q. Did Mr. Kohler go in there?

MR. CHAYES: I don't know because the thing is going over the wire now, but Mr. Kohler was instructed to deliver this to the foreign office at the highest level available.

Q. Did we also call the ambassador in here?

MR. CHAYES: The ambassador will get in here, yes.

Q. Is this for seven o'clock release all over the world?

MR. CHAYES: It is for release now all over the world. It is moving on Voice of America and it is moving on our telegraphic lines in the clear.

Q. The United States apparently felt it had sufficient authority to undertake this before going to the UN and before going to the OAS. Can you run over again what this authority is, in our view?

MR. CHAYES: I don't think you have to take the "if's" on it. The "whereas" clauses which Pierre skipped over spell out the general basis on which the President acts. The first cites the threat to the peace and security of the world. The second cites the joint resolution passed by Congress. The third cites the OAS resolution today. The President, of course, acts with respect to the forces under his command as Commander-in-Chief. So all of those sources of law, sources of justification, are available. The Proclamation was not signed until after the OAS resolution was passed, and

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Q. You just said the use of force will be justified under certain circumstances. At the Pentagon last night, at a briefing, as I read the accounts of it, if a ship refuses search, we could possibly sink it. Is that what force means here?

MR. CHAYES: What this says is force will be used to the extent necessary, and the occasions are specified. One, in case of refusal to obey orders so that you have to take over the ship. Now, in such a case, of course, it may be possible to disable the ship or something of that kind. But only the minimum amount of force necessary to take over the

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Q. International law as such or the UN Charter are not being invoked?

MR. CHAYES: I don't know what you mean by international law as such. Action taken under the OAS Treaty, a Treaty signed by 21 States in this hemisphere, including Cuba,

directed to a matter within the Treaty area, and involving a threat to the peace is clearly sanctioned at international law. The UN agrees, the UN Charter contemplates, that actions against threats to the peace will be taken by regional organizations. Articles 52, 53 and 54 all contemplate that. And, indeed, those were put in the Charter at San Francisco specifically at the behest of the OAS and to deal with the case of the OAS. So I don't think international law is something sort of up in the sky. The Charter, the action of the OAS under it are elements of international law, and this is an action to deal with a threat to the peace under this Treaty.

Q. Is there any precedent in our history for a Proclamation of this sort?

MR. CHAYES: I don't think there is any time before where we have taken collective action against breach of the peace of this kind in this hemisphere under these circumstances.

Q. What about the Confederate States?

Q. Mr. Chayes, is it normal in a case like this to deposit these instruments with international organizations like the UN and the International Court at the Hague?

MR. CHAYES: I don't know about the International Court at The Hague. This will be made available at the UN. The OAS resolution has already been forwarded to the UN. The general character of our proposed action has been reported to the UN.

Q. What body of the UN does this go to?

MR. CHAYES: We reported last night to the Security Council. I should think we would just send this up to the Secretariat.

Q. We have heard that there were about 20 Soviet ships on the way to Cuba now, and some of them might be approaching there tonight. Do you expect any of those will or will not make this deadline, get in before ten o'clock in the morning?

MR. CHAYES: I have no intelligence. I am just a lawyer.

Q. Under some procedures, you are able to seize those ships when they come out of port?

MR. CHAYES: When they come out of the port?

Q. Yes.

MR. CHAYES: This Proclamation is directed to inbound ships carrying offensive weapons to Cuba.

Q. But when a ship is taken into custody and taken into an American port, what is the expectation? Is it in custody indefinitely, to be tied up?

MR. CHAYES: It depends what kind of a ship, what it is carrying, what can be done with it, and what action it takes.

Q. Would you agree that interdict is a high-class word for stop?

MR. CHAYES: You have a dictionary just like I have.

Q. Has the Swiss Ambassador received in Havana specific --

MR. CHAYES: The Swiss Ambassador got two copies of this, one to deliver to Berne and one to deliver to Havanna.

Q. Do you think they might be ahead of themselves on those copies?

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MR. SALINGER: They should be up any minute.

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Q. Can we ask the question if you expect any of those ships to be in before ten o'clock in the morning?

MR. SALINGER: I think that question should be directed to Secretary McNamara.

Q. Are we going to invoke this to try to gain the cooperation of our NATO allies and others, to try to cite this body of law that you just cited to us?

MR. CHAYES: We expect that our NATO allies will recognize this as an adequate legal justification. So far we have had conversations with them and they understand the legal basis of our position.

Q. Secretary Salinger said something -- he was talking pretty fast -- that we would use our ships or the ships of any Latin American country that wants to join in. Is that correct?

MR. SALINGER: That is correct.

Q. Has any Latin American nation offered its ships?

MR. CHAYES: One of your people said that Colombia had. I know we are talking to a number of Latin American States with a view to getting their cooperation, the cooperation of their forces and facilities in this operation.

Q. You said the ships could go to any destination of their choice. What if they choose to go to Cuba?

MR. CHAYES: I meant a destination of their choice other than Cuba.

Q. How does this relate to aircraft?

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MR. CHAYES: It depends what kind of a ship, what it is carrying, what can be done with it, and what action it takes.

Q. What happens to Marine underwriters? Seriously.

MR. CHAYES: I don't run an insurance business either. I don't know. And in view of the fact, I would say that the list is a relatively narrowly restricted list of offensive weapons of very high potential which are not usually carried in ordinary merchant ships. I don't think Lloyds is going to be --

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MR. SALINGER: Let's not leave the room until you all get copies of this.

Q. Can you clear this up as it applies to airplanes?

MR. SALINGER: He said the Defense Department would reply to that.

Q. McNamara said that it would apply to airplanes, but they haven't but about six to make the flight.

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MR. CHAYES: The Proclamation is clear enough to apply to airplanes.

Q. Did you say you didn't call this a blockade?

MR. CHAYES: I do not call this a blockade, no.

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THE PRESS: Thank you.

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